



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/688,039	10/17/2003	James R. Crossgrove	END920030050US1	9190

45092 7590 08/04/2010
HOFFMAN WARNICK LLC
75 STATE ST
14TH FLOOR
ALBANY, NY 12207

EXAMINER

ZIMMERMAN, MATTHEW E

ART UNIT	PAPER NUMBER
----------	--------------

3625

NOTIFICATION DATE	DELIVERY MODE
-------------------	---------------

08/04/2010

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PTOCommunications@hoffmanwarnick.com

Office Action Summary	Application No. 10/688,039	Applicant(s) CROSSGROVE ET AL.	
	Examiner MATTHEW ZIMMERMAN	Art Unit 3625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 November 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5, 7-10, 12-20, 22 and 23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 7-10, 12-20, 22-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 11/24/2009 has been entered.

Status of Claims

2. Claims 1-5, 7-10, 12-20, 22-23 have been examined.
3. Claims 6, 11, and 21 have been cancelled.
4. Claims 1-2, 9-15, and 16-17 have been amended.

Claim Rejections - 35 USC § 101

5. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

6. Claims 1-5 and 7-8 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The claimed invention is drawn to a computer program per se. A computer program per se is abstract instructions and not a machine or apparatus; nor is it a process as the instructions are not "acts" being performed. As such, the claimed invention is not directed to one of the four statutory

Art Unit: 3625

categories of invention, but instead directed to nonstatutory functional descriptive material. It is noted that computer programs embodied on a computer readable medium or other structure, which would permit the functionality of the program to be realized, would be directed to a product and be within a statutory category of invention, so long as the computer readable medium is not disclosed as non-statutory subject matter per se (e.g., signals or carrier waves).

7. Claims 9-10 and 12-15 are directed to methods. One tool for assisting in determining whether the claimed invention is directed to a statutory process under 35 USC 101 is the "machine-or-transformation" test. If a claimed method meets the "machine-or-transformation" test, the method is likely patent-eligible under 35 USC 101 unless there is a clear indication that the method is directed to an abstract idea. If a claimed method does not meet the "machine-or-transformation" test, the claim will be considered directed to a non-statutory process unless there is a clear indication that the method is not directed to an abstract idea.

An analysis of method claims using the "machine-or-transformation" test seeks to determine whether the claimed method is (1) tied to a particular machine or apparatus, or (2) transforms a particular article to a different state or thing. In addition, mere field of use limitations or limitations reciting insignificant extra-solution activity will not transform an unpatentable process into a patentable one as the machine or transformation must impose meaningful limits on the method claim's scope.

In the instant case, independent claim 9 lacks any recitation of a machine, let alone a recitation which creates a substantial tie so as to impose meaningful limitations

Art Unit: 3625

on the claim scope. The steps of processing and inserting are not tied to any machine nor do they transform an underlying article to a different state or thing. Accordingly, these claims fail to pass the "machine-or-transformation" test. Further to the analysis as to whether the claims recite a statutory process under 35 USC 101, there is nothing of record which clearly indicates that the method recited is not directed to an abstract idea. Accordingly, these claims fail to set forth a statutory process under 35 USC 101.

In addition, dependent claims 8-10 and 12-15 fail to remedy the deficiencies reported above, and accordingly, claims 8-10 and 12-15 are similarly considered to be directed to non-statutory processes.

8. Claims 16-20 and 22-23 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The United States Patent and Trademark Office (USPTO) is obliged to give claims their broadest reasonable interpretation consistent with the specification during their proceedings before the USPTO. See *In re Zletz*, 893 F.2d 319 (Fed. Cir. 1989) (during patent examination the pending claims must be interpreted as broadly as their terms reasonably allow). The broadest reasonable interpretation of a claim drawn to a computer readable medium (also called machine readable medium and other such variations) typically covers forms of non-transitory tangible media and transitory propagating signals per se in view of the ordinary and customary meaning of computer readable media, particularly when the specification is silent. See MPEP 2111.01. When the broadest reasonable interpretation of a claim covers a signal per se, the claim must be rejected under 35 U.S.C. 101 as

Art Unit: 3625

covering non-statutory subject matter. See *In re Nuijten*, 500 F.3d 1346, 1356-57 (Fed. Cir. 2007) (transitory embodiments are not directed to statutory subject matter).

In this instance the broadest reasonable interpretation of the claims covers a signal per se, and therefore the claims are be rejected under 35 U.S.C. 101 as covering non-statutory subject matter

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. **Claims 1-4, 7-8, 16-19, 22-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Burton (US. Pub. No. 2002/0055878) in view of Klatt (US. Pat. No. 6,415,277).**

Referring to claim 1, Burton teaches a system for maintaining item requests, comprising:

- a queue system for inserting any failed requests into a failed request queue
(see *Burton Fig. 81 and ¶0456 lines 1-5, 17-20, a list of attention items 4112*
“may be used to display any relevant information regarding one or more user orders that may or may not be problematic”);
- a view presentation system for presenting an administrator with a view of the failed request queue, the view including an identification of a request that

Art Unit: 3625

- failed and a reason for the failure (*see Burton Fig. 81, ¶0367, and ¶0456, the system displays the attention items 4112 to the user using HTTP and HTML*);
- a data presentation system for displaying data, distinct from the failed request queue (*see Burton Fig. 86 and ¶0456, the system also displays attention items which are not problematic*), corresponding to user-initiated item requests to an administrator (*see Burton Figs. 81, 86*), wherein the data presentation system accesses a set of tables to obtain the data (*see Burton ¶0456*), and wherein the set of tables includes a party table that identifies suppliers suggested by users issuing the user-initiated item requests for fulfilling the user-initiated item requests, the displayed data including at least one identified supplier (*see Burton Figs. 81, 86, the supplier is the restaurant selected by the user*);
 - a data edit system for allowing the administrator to edit the data corresponding to the user-initiated item requests (*see Burton ¶0138, lines 5-8*);
 - wherein the view of the failed request queue and the data are presented separately to the administrator in separate views within a single window without opening multiple windows (*see Burton Figs. 81, 86; see ¶0456 lines 1-5, 17-20*).

Burton does not explicitly disclose where the requests could also be system-initiated requests. However, Klatt does (*see Klatt Abstract lines 1-5; Figs. 13-14*). It would have been obvious to combine these methods at the time of invention because enabling the

Art Unit: 3625

system for maintaining item requests to also handle system-initiated requests leads to the predictable result of handling more types of orders and increased revenue.

The Examiner finds that the descriptive material recited in the limitation “the view including an identification of a request that failed and a reason for the failure” is non-functional and does not distinguish the claimed invention over the prior art. The data comprising “an identification of a request that failed and a reason for the failure” does not in any way functionally affect the claimed steps of “presenting a view”. In *re* Ngai, 70 USPQ2d (Fed. Cir. 2004), In *re* Lowry, 32 USPQ2d 1031 (Fed. Cir. 1994). MPEP 2016.01. Therefore, the prior art of Burton and Klatt is capable of meeting this non-functional limitation.

Referring to claim 2, the combination discloses the system of claim 1, further disclosing wherein the set of tables further includes a header level text table that identifies business justifications set forth by the users for approving the user-initiated item requests (*see Burton Fig. 81 and 86, an order – the Examiner notes that a business justification for an order is the order itself and Burton teaches a list of orders*).

Referring to claim 3, the combination discloses the system of claim 1, further disclosing a request reception system for receiving the user-initiated item requests from the users (*see Burton ¶0133 line 4*) and the system-initiated item requests from at least one external system (*see Burton Fig. 2 items 112-113; ¶0124 lines 1-2*), wherein the request reception system further populates the set of tables using data from the user-initiated item requests and the system-initiated item requests (*see Burton ¶0268*).

Referring to claim 4, the combination discloses the system of claim 1, further disclosing a request processing system for assigning approvers (*see Burton Fig. 62*) and suppliers (*see Burton Fig. 36, a user selects a supplier restaurant*) to the user-initiated item requests and the system-initiated item requests. Regarding, assigning of approvers, *Burton teaches a user approving a transaction (see Burton Fig. 62 “Confirm your order”, “SUBMIT”)* and after the user *approves* the order the system assigns the user to the order via an order number (*see Burton Fig. 86*).

Referring to claim 7, the combination discloses the system of claim 1, further disclosing wherein the administrator is a global administrator (*see Burton Fig. 103 and ¶0494, there are many administrators with many different permission levels*).

Referring to claim 8, the combination discloses the system of claim 1, further disclosing wherein the view presentation system further provides a country administrator (*see Burton Fig. 103 and ¶0494, there are many administrators with many different permission levels*) with the view of the failed request queue (*see Burton Figs. 81, 86*), and wherein the data presentation system further displays the data corresponding to the system-initiated item requests and the user-initiated item requests to the country administrator (*see Burton Figs. 81, 86*).

Referring to claim 16, *Burton teaches a program product stored on a computer readable storage medium for maintaining item requests, which when executed comprises, comprising:*

- *program code for inserting any failed system-initiated item requests into a failed request queue (see Burton Fig. 81 and ¶0456 lines 1-5, 17-20, a list of*

Art Unit: 3625

- attention items 4112 “may be used to display any relevant information regarding one or more user orders that may or may not be problematic”;*
- program code for presenting an administrator with a view of the failed request queue, the view including an identification of a request that failed and a reason for the failure (*see Burton Fig. 81, ¶0367, and ¶0456, the system displays the attention items 4112 to the user using HTTP and HTML*);
 - program code for displaying data, distinct from the failed request queue (*see Burton Fig. 86 and ¶0456, the system also displays attention items which are not problematic*), corresponding to user-initiated item requests to an administrator (*see Burton Figs. 81, 86*), wherein the program code for displaying accesses a set of tables to obtain the data (*see Burton ¶0456*), and wherein the set of tables includes a party table that identifies suppliers suggested by users issuing the user-initiated item requests for fulfilling the user-initiated item requests, the displayed data including at least one identified supplier (*see Burton Figs. 81, 86, the supplier is the restaurant selected by the user*);
 - program code for allowing the administrator to edit the data corresponding to the system-initiated item requests and the user-initiated item requests (*see Burton ¶0138, lines 5-8*);
 - wherein the view of the failed request queue and the data are presented to the administrator in separate views within a single window without opening multiple browser (*see Burton Figs. 81, 86; see ¶0456 lines 1-5, 17-20*).

Art Unit: 3625

Burton does not explicitly disclose where the requests could also be system-initiated requests. However, Klatt does (*see Klatt Abstract lines 1-5; Figs. 13-14*). It would have been obvious to combine these methods at the time of invention because enabling the system for maintaining item requests to also handle system-initiated requests leads to the predictable result of handling more types of orders and increased revenue.

The Examiner finds that the descriptive material recited in the limitation “the view including an identification of a request that failed and a reason for the failure” is non-functional and does not distinguish the claimed invention over the prior art. The data comprising “an identification of a request that failed and a reason for the failure” does not in any way functionally affect the claimed steps of “presenting a view”. In *re Ngai*, 70 USPQ2d (Fed. Cir. 2004), In *re Lowry*, 32 USPQ2d 1031 (Fed. Cir. 1994). MPEP 2016.01. Therefore, the prior art of Burton and Klatt is capable of meeting this non-functional limitation.

Referring to claims 17-19 and 22-23, these claims are similar to claims 2-4 and 7-8 and are rejected for the same reasons and rationale as claims 2-4 and 7-8.

11. Claims 5, 9-10, 12-15, 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Burton (US. Pub. No. 2002/0055878) and Klatt (US. Pat. No. 6,415,277) in further view of Joseph (US 6,606,603).

Referring to claim 5, the combination discloses the system of claim 4, further disclosing wherein the processing system processes the system-initiated requests differently from user-initiated item requests (*see Burton Fig. 4 item 168 which is different from Klatt Fig. 13-14*). The combination does not explicitly teach wherein the requests

Art Unit: 3625

are processed in batch mode. However, in an analogous art, Joseph teaches wherein requests are processed in batch mode (*see Joseph Col. 7 lines 4-11*). It would have been obvious to one of ordinary skill in the art at the time of invention to batch process the data because it would save processing time which would result in saving money.

Referring to claim 9, Burton teaches a method for maintaining item requests, comprising:

- receiving a user-initiated item request (*see Burton ¶0133*), wherein the user-initiated item request identifies a supplier for fulfilling the user-initiated item request (*see Burton ¶0133 line 6*);

Burton does not explicitly disclose where the requests may also be system-initiated requests. However, Klatt does (*see Klatt Abstract lines 1-5; Figs. 13-14*). It would have been obvious to combine these methods at the time of invention because enabling the system for maintaining item requests to also handle system-initiated requests leads to the predictable result of handling more types of orders and increased revenue.

The combination further teaches:

- processing the user-initiated item request and the system-initiated request (*see Burton Fig. 4 items 168, 170, 184*), wherein the system-initiated item request is processed differently from user-initiated item requests (*see Burton Fig. 4 item 168 which is different from Klatt Fig. 13-14*);
- inserting the system-initiated item request into a failed request queue if the processing of the system-initiated item request fails (*see Burton Fig. 81; ¶0456 lines 1-5, 17-20, a queue for problematic orders*);

Art Unit: 3625

- presenting an administrator with a view of the failed request queue upon request, the view including an identification of a system-initiated request that failed and a reason for the failure (see *Burton Fig. 81*, ¶0367, and ¶0456, *the system displays the attention items 4112 to the user using HTTP and HTML*);
- accessing a set of tables to display data, distinct from the failed request queue (see *Burton Fig. 86* and ¶0456, *the system also displays attention items which are not problematic*), corresponding to the system-initiated item request and user-initiated item request to the administrator (see *Burton Figs. 81, 86*), wherein the set of tables accessed includes a party table that identifies the supplier, the displayed data including at least one identified supplier (see *Burton Figs. 81, 86*, *the supplier is the restaurant selected by the user*);
- wherein the view of the failed request queue and the data are presented separately to the administrator in separate views within a single window without opening multiple windows (see *Burton Figs. 81, 86*; see ¶0456 *lines 1-5, 17-20*).

The combination does not explicitly teach wherein the requests are processed in batch mode. However, in an analogous art, Joseph teaches wherein requests are processed in batch mode (see *Joseph Col. 7 lines 4-11*). It would have been obvious to one of ordinary skill in the art at the time of invention to batch process the data because it would save processing time which would result in saving money.

The Examiner finds that the descriptive material recited in the limitation “the view including an identification of a request that failed and a reason for the failure” is non-functional and does not distinguish the claimed invention over the prior art. The data comprising “an identification of a request that failed and a reason for the failure” does not in any way functionally affect the claimed steps of “presenting a view”. In re Ngai, 70 USPQ2d (Fed. Cir. 2004), In re Lowry, 32 USPQ2d 1031 (Fed. Cir. 1994). MPEP 2016.01. Therefore, the prior art of Burton and Klatt is capable of meeting this non-functional limitation.

Referring to claim 10, the combination discloses the method of claim 9, further disclosing a method for assigning approvers (see Burton Fig. 62) and suppliers (see Burton Fig. 36, a user selects a supplier restaurant) to the user-initiated item requests and the system-initiated item requests. Regarding, assigning of approvers, Burton teaches a user approving a transaction (Fig. 62 “Confirm your order”, “SUBMIT”) and after the user *approves* the order the system assigns the user to the order via an order number (Fig. 86).

Referring to claim 12, the combination discloses the method of claim 9, further disclosing wherein the administrator is a global administrator (administrators having different permission levels) (see Burton Fig. 103, ¶0494).

Referring to claim 13, the combination discloses the method of claim 12, further disclosing providing the global administrator with the capability to edit displayed data (see Burton ¶0138, lines 5-8).

Referring to claim 14, the combination discloses the method of claim 9, further disclosing wherein the administrator is a country administrator (administrators having different permission levels) (see Burton Fig. 103, ¶0494).

Referring to claim 15, the combination discloses the method of claim 9, further disclosing wherein the user-initiated item request further includes a business justification for approving the user-initiated item request (a business justification for an order is the order itself) (see Burton ¶0102, lines 3-4), and wherein the set of tables accessed to display the data further includes a header level text table (see Burton Fig. 35, item 2016).

Referring to claim 20, the combination discloses the program product of claim 19, further disclosing wherein the program code for processing processes the system-initiated requests differently from user-initiated item requests (see Burton Fig. 4 item 168 which is different from Klatt Fig. 13-14).

The combination does not explicitly teach wherein the requests are processed in batch mode. However, in an analogous art, Joseph teaches wherein requests are processed in batch mode (see *Joseph Col. 7 lines 4-11*). It would have been obvious to one of ordinary skill in the art at the time of invention to batch process the data because it would save processing time which would result in saving money.

Rejection of Claims 1, 9, and 16 in the Alternative

Claim Rejections - 35 USC § 103

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. **Claims 1-4, 7-8, 16-19, 22-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Burton (US. Pub. No. 2002/0055878) and Klatt (US. Pat. No. 6,415,277) in further view of McFeely (US 2002/0184237).**

Referring to claim 1, Burton teaches a system for maintaining item requests, comprising:

- a queue system for inserting any failed requests into a failed request queue (see *Burton Fig. 81 and ¶0456 lines 1-5, 17-20, a list of attention items 4112 "may be used to display any relevant information regarding one or more user orders that may or may not be problematic"*);
- a view presentation system for presenting an administrator with a view of the failed request queue, the view including an identification of a request that failed and a reason for the failure (see *Burton Fig. 81, ¶0367, and ¶0456, the system displays the attention items 4112 to the user using HTTP and HTML*);
- a data presentation system for displaying data, distinct from the failed request queue (see *Burton Fig. 86 and ¶0456, the system also displays attention items which are not problematic*), corresponding to user-initiated item requests to an administrator (see *Burton Figs. 81, 86*), wherein the data

Art Unit: 3625

presentation system accesses a set of tables to obtain the data (*see Burton ¶0456*), and wherein the set of tables includes a party table that identifies suppliers suggested by users issuing the user-initiated item requests for fulfilling the user-initiated item requests, the displayed data including at least one identified supplier (*see Burton Figs. 81, 86, the supplier is the restaurant selected by the user*);

- a data edit system for allowing the administrator to edit the data corresponding to the user-initiated item requests (*see Burton ¶0138, lines 5-8*);

Burton does not explicitly disclose where the requests could also be system-initiated requests. However, Klatt does (*see Klatt Abstract lines 1-5; Figs. 13-14*). It would have been obvious to combine these methods at the time of invention because enabling the system for maintaining item requests to also handle system-initiated requests leads to the predictable result of handling more types of orders and increased revenue.

The Examiner finds that the descriptive material recited in the limitation “the view including an identification of a request that failed and a reason for the failure” is non-functional and does not distinguish the claimed invention over the prior art. The data comprising “an identification of a request that failed and a reason for the failure” does not in any way functionally affect the claimed steps of “presenting a view”. In *re Ngai*, 70 USPQ2d (Fed. Cir. 2004), In *re Lowry*, 32 USPQ2d 1031 (Fed. Cir. 1994). MPEP 2016.01. Therefore, the prior art of Burton and Klatt is capable of meeting this non-functional limitation.

Art Unit: 3625

The combination further teaches wherein the view of the failed request queue and the data are presented to the administrator in views within a single window without opening multiple windows (*see Burton Figs. 81, 86; see ¶0456 lines 1-5, 17-20*). The combination does not explicitly teach wherein the failed request queue and the data are presented separately in separate views. However, in an analogous art, McFeely teaches wherein the failed request queue and the data are presented separately in separate views (*see McFeely Figs. 3, 6, and ¶0062, the system displays the “alerts” portion separate from the other portions, wherein each portion is accessible in the same browser window through separate tabs*). It would have been obvious to one of ordinary skill in the art at the time of invention to combine these references because it would increase efficiently. Specifically, separating the failed request queue (alerts) from the other data will permit the administrator to quickly access the failed requests instead of sorting through the failed requests from non-failed requests.

Referring to claim 16, Burton teaches a program product stored on a computer readable storage medium for maintaining item requests, which when executed comprises, comprising:

- program code for inserting any failed system-initiated item requests into a failed request queue (*see Burton Fig. 81 and ¶0456 lines 1-5, 17-20, a list of attention items 4112 “may be used to display any relevant information regarding one or more user orders that may or may not be problematic”*);
- program code for presenting an administrator with a view of the failed request queue, the view including an identification of a request that failed an a reason

Art Unit: 3625

- for the failure (see *Burton Fig. 81, ¶0367, and ¶0456, the system displays the attention items 4112 to the user using HTTP and HTML*);
- program code for displaying data, distinct from the failed request queue (see *Burton Fig. 86 and ¶0456, the system also displays attention items which are not problematic*), corresponding to user-initiated item requests to an administrator (see *Burton Figs. 81, 86*), wherein the program code for displaying accesses a set of tables to obtain the data (see *Burton ¶0456*), and wherein the set of tables includes a party table that identifies suppliers suggested by users issuing the user-initiated item requests for fulfilling the user-initiated item requests, the displayed data including at least one identified supplier (see *Burton Figs. 81, 86, the supplier is the restaurant selected by the user*);
 - program code for allowing the administrator to edit the data corresponding to the system-initiated item requests and the user-initiated item requests (see *Burton ¶0138, lines 5-8*);

Burton does not explicitly disclose where the requests could also be system-initiated requests. However, Klatt does (see *Klatt Abstract lines 1-5; Figs. 13-14*). It would have been obvious to combine these methods at the time of invention because enabling the system for maintaining item requests to also handle system-initiated requests leads to the predictable result of handling more types of orders and increased revenue.

The Examiner finds that the descriptive material recited in the limitation “the view including an identification of a request that failed and a reason for the failure” is non-

Art Unit: 3625

functional and does not distinguish the claimed invention over the prior art. The data comprising “an identification of a request that failed and a reason for the failure” does not in any way functionally affect the claimed steps of “presenting a view”. In re Ngai, 70 USPQ2d (Fed. Cir. 2004), In re Lowry, 32 USPQ2d 1031 (Fed. Cir. 1994). MPEP 2016.01. Therefore, the prior art of Burton and Klatt is capable of meeting this non-functional limitation.

The combination further teaches wherein the view of the failed request queue and the data are presented to the administrator in views within a single window without opening multiple windows (*see Burton Figs. 81, 86; see ¶0456 lines 1-5, 17-20*). The combination does not explicitly teach wherein the failed request queue and the data are presented separately in separate views. However, in an analogous art, McFeely teaches wherein the failed request queue and the data are presented separately in separate views (*see McFeely Figs. 3, 6, and ¶0062, the system displays the “alerts” portion separate from the other portions, wherein each portion is accessible in the same browser window through separate tabs*). It would have been obvious to one of ordinary skill in the art at the time of invention to combine these references because it would increase efficiently. Specifically, separating the failed request queue (alerts) from the other data will permit the administrator to quickly access the failed requests instead of sorting through the failed requests from non-failed requests.

14. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Burton (US. Pub. No. 2002/0055878) and Klatt (US. Pat. No. 6,415,277) in further view of Joseph (US 6,606,603) and in further view of McFeely (US 2002/0184237).

Referring to claim 9, the combination teaches a method for maintaining item requests, comprising:

- receiving a user-initiated item request (see *Burton ¶0133*), wherein the user-initiated item request identifies a supplier for fulfilling the user-initiated item request (see *Burton ¶0133 line 6*);

Burton does not explicitly disclose where the requests may also be system-initiated requests. However, Klatt does (see *Klatt Abstract lines 1-5; Figs. 13-14*). It would have been obvious to combine these methods at the time of invention because enabling the system for maintaining item requests to also handle system-initiated requests leads to the predictable result of handling more types of orders and increased revenue.

The combination further teaches:

- processing the user-initiated item request and the system-initiated request (see *Burton Fig. 4 items 168, 170, 184*), wherein the system-initiated item request is processed differently from user-initiated item requests (see *Burton Fig. 4 item 168* which is different from *Klatt Fig. 13-14*);
- inserting the system-initiated item request into a failed request queue if the processing of the system-initiated item request fails (see *Burton Fig. 81; ¶0456 lines 1-5, 17-20, a queue for problematic orders*);
- presenting an administrator with a view of the failed request queue upon request, the view including an identification of a system-initiated request that failed and a reason for the failure (see *Burton Fig. 81, ¶0367, and ¶0456, the system displays the attention items 4112 to the user using HTTP and HTML*);

Art Unit: 3625

- accessing a set of tables to display data, distinct from the failed request queue (*see Burton Fig. 86 and ¶0456, the system also displays attention items which are not problematic*), corresponding to the system-initiated item request and user-initiated item request to the administrator (*see Burton Figs. 81, 86*), wherein the set of tables accessed includes a party table that identifies the supplier, the displayed data including at least one identified supplier (*see Burton Figs. 81, 86, the supplier is the restaurant selected by the user*);

The combination does not explicitly teach wherein the requests are processed in batch mode. However, in an analogous art, Joseph teaches wherein requests are processed in batch mode (*see Joseph Col. 7 lines 4-11*). It would have been obvious to one of ordinary skill in the art at the time of invention to batch process the data because it would save processing time which would result in saving money.

The Examiner finds that the descriptive material recited in the limitation “the view including an identification of a request that failed and a reason for the failure” is non-functional and does not distinguish the claimed invention over the prior art. The data comprising “an identification of a request that failed and a reason for the failure” does not in any way functionally affect the claimed steps of “presenting a view”. In *re Ngai*, 70 USPQ2d (Fed. Cir. 2004), In *re Lowry*, 32 USPQ2d 1031 (Fed. Cir. 1994). MPEP 2016.01. Therefore, the prior art of Burton and Klatt is capable of meeting this non-functional limitation.

The combination further teaches wherein the view of the failed request queue and the data are presented to the administrator in views within a single window without opening multiple windows (*see Burton Figs. 81, 86; see ¶0456 lines 1-5, 17-20*). The combination does not explicitly teach wherein the failed request queue and the data are presented separately in separate views. However, in an analogous art, McFeely teaches wherein the failed request queue and the data are presented separately in separate views (*see McFeely Figs. 3, 6, and ¶0062, the system displays the “alerts” portion separate from the other portions, wherein each portion is accessible in the same browser window through separate tabs*). It would have been obvious to one of ordinary skill in the art at the time of invention to combine these references because it would increase efficiently. Specifically, separating the failed request queue (alerts) from the other data will permit the administrator to quickly access the failed requests instead of sorting through the failed requests from non-failed requests.

Response to Arguments

15. Applicant's arguments filed on 10/28/2009 have been fully considered.

16. Applicant respectfully argues: the references cited by the Office do not teach each and every feature of the claimed invention. For example, with respect to independent claims 1, 9 and 16, Applicants submit that the cited references fail to teach or suggest that the view of the failed request queue and the data are presented to the administrator in separate views within a single window without opening multiple windows. In contrast, what Burton discloses is a list of orders as shown in Burton's

Art Unit: 3625

Figure 81 and Paragraph 4056, Lines 1-5 and 9-15, as quoted by Examiner on Page 11 of the Office Action in the Examiner's Response to Arguments. Although the list of Burton can be searched and sorted, and shows problematic orders as well as non-problematic orders on separate rows of a list, Applicants assert that this is not the same as separate views within a single window.

The Examiner respectfully disagrees. Burton teaches a request queue called an “attention item” that “may be used to display any relevant information regarding one or more user orders that may or may not be problematic” (see Burton ¶0456 lines 1-5). The queue can be seen in figure 81 and shows an interface for searching orders based on keywords, places, date ranges, and other factors (see Burton ¶0456 lines 9-15). Referring to the browser window depicted in figure 81, the “failed request queue” is shown as attention item 4112 which displays problematic orders, and it is also shown in item 4116 as the total number of orders needing attention. The “data corresponding to user-initiated item requests” is shown as attention item 4112 which displays non-problematic orders, and it is also shown in item 4116 as the total number of orders that do not need attention. This view is consistent with the text of Burton which states that attention item 4112 may be used to display any relevant information regarding one or more user orders that may or may not be problematic in any relevant form” (see Burton ¶0456 lines 1-5). This is also shown in figure 81 according to the column heading “Needs Attn?”.

Burton teaches that both sets of data (e.g., problematic and non-problematic orders) are displayed in separate views within the same window in several ways. First,

Art Unit: 3625

both problematic and non-problematic orders are displayed in separate views in the same window because all orders, regardless of whether they are problematic or not, are displayed in different rows in the same list on the same webpage (see *Burton Fig. 81 item 4112*; see *Burton ¶0456 lines 3-5*, “Attention item 4112 may be used to display any relevant information regarding one or more user orders that may or may not be problematic in any relevant form”). In this instance, each row constitutes a “separate view”.

Second, both problematic and non-problematic orders are displayed in separate views in the same window because figure 81 has a box identifying the number of orders which need attention and a separate box identifying the number of orders which do not need attention (see *Burton Fig. 81*, a first box stating “0 orders need attention” and a second box stating “10 orders don’t need attention”). In this instance, each box containing the number of orders either needing or not needing attention, constitutes a “separate view.”

Third, both problematic and non-problematic orders are displayed in separate views in the same window because a text search could be performed for problematic orders thus excluding non-problematic from the results, and a text search could be performed for non-problematic orders thus excluding problematic orders from the results (see *Burton Fig. 81 item 4114*, a text search box to search for orders). In this third example, while both sets of data (problematic and non-problematic orders) are displayed in separate views, they are in fact displayed within the same window because nowhere does Burton state that in order to change the search text or keyword, a user

Art Unit: 3625

must either close and then reopen his browser window, or open a second browser window simultaneously (*see Burton Fig. 82, the search results page lists a button 4162 to take the user back to the search page described in figure 81 so that the user can perform another search; as such, the same browser window is maintained*).

Fourth, there are many other instances where Burton teaches displaying both sets of data separately in the same browser window. One such example is figure 87 which displays problematic orders and also has an option checkbox to additionally display any cancelled orders. Once an order is cancelled, it is no longer problematic. Therefore, both problematic and non-problematic (which in this case represents cancelled orders) are displayed in separate views within the same window because they appear in the same window in separate rows.

Fifth, the Examiner has presented a new argument in the alternative directed to claims 1, 9, and 16, which introduces McFeely (US 2002/0184237) to teach the elements in dispute.

For these five reasons, the Examiner is not persuaded by applicant's arguments.

17. Applicant respectfully argues that while Johnson may teach batch processing user orders it does not teach batch processing system orders.

The Examiner respectfully disagrees. The prior art of Johnson has not been introduced to teach batch processing of a specific type of orders, but rather the batch processing of orders in general—whether they were initiated by the system or by a user. Also, while the Applicant has argued that the batch processing of system-initiated

Art Unit: 3625

orders is not obvious, the Applicant has not set forth any reasoning or rationale to support this argument.

18. Applicant respectfully argues that Burton and Klatt do not teach processing user initiated requests differently from system initiated requests. Specifically, the Applicant states that the Office merely “states that since the orders of Burton and Klatt are different, they are processed differently. As stated on Page 15 of the Final Office Action, an order for pizza and an order for a flyer are processed differently. Applicants assert that any combination could have been used to make this point, and that the rejection fails to consider the claim as a whole.”

The Examiner respectfully disagrees. It is difficult to find a term that is broader in its interpretation than the term “different”. The relevant portion of the claim states: “processing the user-initiated item request and the system-initiated request, wherein the system-initiated item request is processed differently from user-initiated item requests.” At the very least, processing an order for a pizza and processing an order for a brochure is in fact different after considering the claim as a whole. Further, while the Applicant may very well be correct in stating that “any combination could have been used to make this point”, it does not change the fact that the claim is extremely broad and fully taught by the prior art.

Conclusion

19. Any inquiry concerning this communication or earlier communications from the examiner should be directed to MATTHEW ZIMMERMAN whose telephone number is (571)270-5278. The examiner can normally be reached on Mon-Thu 7:00am-3:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeff Smith can be reached on (571) 272-6763. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MATTHEW ZIMMERMAN
Examiner, Art Unit 3625

/Yogesh C Garg/
Primary Examiner, Art Unit 3625